

United States District Court
Central District of California

SONIA PEREZ, individually, and on
behalf of a class of similarly situated
individuals,

Plaintiff,

v.

THE KROGER CO.; and DOES 1–10,
Defendants.

Case № 2:17-cv-02448-ODW (AGR)

**ORDER DENYING MOTION TO
DISMISS AS MOOT [10]**

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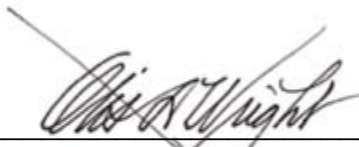
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1 Defendant The Kroger Company served Plaintiff Sonia Perez with a Federal
2 Rule of Civil Procedure 12(b)(6) motion to dismiss in this case on May 5, 2017. (ECF
3 No. 10.) Plaintiff filed a first amended complaint on May 26, 2017, twenty-one days
4 later. (ECF No. 20.) Rule 15(a)(1) allows Plaintiff to file an amended complaint once
5 as a matter of course within twenty-one days of service with a Rule 12(b) motion.
6 Therefore, Plaintiff's amended complaint was proper. As the pending motion to
7 dismiss was based on a complaint that is no longer operative, the motion is **DENIED**
8 as **MOOT**. *See Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir.
9 2015).

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11 **IT IS SO ORDERED.**

12 May 31, 2017

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16 **OTIS D. WRIGHT, II**
17 **UNITED STATES DISTRICT JUDGE**
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